

REMARKS/ARGUMENTS

Claims 1-7 are pending in the application. Applicant respectfully requests reconsideration and allowance of all pending claims.

Discussion of Provisional Double Patenting Rejection

Claims 1-7 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of co-pending U.S. Patent Application No. 10/769,420 (the '420 application) in view of U.S. Patent Application Publication No. 2004/0242209 to Kruis et al (hereinafter Kruis).

Applicant notes that the claims of the '420 application were amended in correspondence submitted on July 20, 2007, and a Notice of Allowance was issued on August 10, 2007.

Claims 1-7 of the present application are believed to be distinct over claims 1-7 of the '420 application in light of the amendments entered in the '420 application. As an example, claim 1 from the '420 application features two distinct communication sessions. A first communication session occurs between the position location engine and the PDE. A second communication session is established between the position location engine and a PDE.

Applicant believes that the claims of the present application are not obvious in light of claims 1-7 from the '420 application in light of Kruis. The claims in the present application differ from amended claims 1-7 of the '420 application by much more than the single element identified by the Examiner.

Applicant respectfully requests reconsideration and withdrawal of the Provisional Double Patenting rejection.

Discussion of Rejections Under 35 U.S.C. §103

Claims 1-7 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent Application Publication No. 2002/0115453 to Poulin et al. (hereinafter Poulin) in view of Kruis.

In the Response to Arguments section of the Office Action, dated July 18, 2007, the Examiner responds to Applicant's arguments submitted in Applicant's Response, dated April 18, 2007. The Examiner responds to Applicant's arguments by alleging that the Applicant

has argued on limitations from the Specification, and that “limitations from the specification are not read into the claims.” *Office Action*, dated July 18, 2007, at page 2.

Applicant respectfully believes that the Examiner has misinterpreted Applicant’s response. Applicant argues portions of the Specification in order to refute the Examiner’s characterization of Applicant’s Specification and not as limitations to be read into the claims. The Examiner cites to and characterizes portions of Applicant’s Specification in the rejection of the claim element “requesting authentication of the LBS application.” Applicant discusses the portions of the Specification in order to refute Examiner’s characterization of Applicant’s Specification, not as an alleged limitation to be read into the claim.

Indeed, Applicant’s arguments relating to the failure of Poulin to teach or suggest the claimed feature of “communicating directly with a mobile positioning center (MPC) in order to have the MPC fulfill the request for authentication of the LBS application” do not rely on any portion of Applicant’s Specification. Applicant does not argue a feature that is not present in the claim. Instead, Applicant argues a deficiency in the Poulin reference cited by the Examiner. Yet the Examiner states that Applicant’s arguments “are not recited in the rejected claim.” *Office Action*, at page 2.

Applicant submits herein arguments in favor of patentability that are clarified to facilitate Examiner’s review. Applicant respectfully traverses the rejections and requests reconsideration and allowance of all pending claims.

Discussion of First Claimed Feature Not Obvious in Light of Poulin and Kruis

Claim 1 features “b. requesting authentication of the LBS application.” At least this feature is not taught nor suggested by either Poulin or Kruis.

The Examiner Cites to Poulin’s Description of Accessing a Subscriber Profile

The Examiner contends that Poulin teaches or suggests this claimed feature at paragraphs 25, and 28-30 36, and 62-69. *See, Office Action*, dated July 18, 2007, at page 5. In particular, the Examiner identifies the portion of Poulin that describes accessing a user profile within a subscriber’s wireless device. and states that “Verification of a *subscriber* is needed to access the proper user profile.” *Id.*, (*emphasis added*).

The Examiner Cites to Applicant's Description of Authorizing an Application

The Examiner cites to Applicant's background as supporting the Examiner's interpretation of Poulin as teaching or suggesting the claimed feature. The Examiner states: "As noted in applicant's specification, authorization involves verifying of subscribers identity and billing (see paragraph 1004 of the specification)." *Id.* However, the Examiner fails to note that this portion of Applicant's Background portion describes one aspect of *authorizing an application*, not accessing a user profile of a *subscriber*, as described in Poulin.

Indeed, the Examiner neglects to note that Applicant's paragraph [1004] also states that:

Such identity and billing information includes such things as: 1) billing address, and 2) *authorization from the service provider to access the requested location information*, and 3) agreement between the party to be billed and the billing entity (i.e., the service provider) regarding the terms and conditions under which requested location information will be provided. That identity and billing information is considered to be "sufficient" if it: 1) allows the service provider to bill and collect fees from the party using the location based services (e.g., providing the position location information) and 2) *protects the privacy of anyone about whom location information will be made available.* *Specification*, at paragraph [1004] (*emphasis added*).

The Examiner neglects to note that Applicant's Specification does *not* state that having a subscriber's identity and billing is the same as authenticating an application. Indeed, this very paragraph relied upon by the Examiner states that the information is sufficient if it also "*protects the privacy of anyone about whom location information will be made available.*" *Specification*, at paragraph [1004] (*emphasis added*).

Applicant argues the interpretation of the cited paragraph from the Specification to refute the Examiner's characterization of Applicant's Specification, not as a limitation on the claim.

Applicant notes that the paragraph from Applicant's Specification relied upon by the Examiner explicitly states that the identity and billing information needs to include "*authorization from the service provider to access the requested location information.*" *Specification*, at paragraph [1004] (*emphasis added*).

Applicant further notes that the paragraph from Applicant's Specification relied upon by the Examiner does not state that having subscriber identity alone is sufficient for

authenticating an application, but that the information must also “*protect[] the privacy of anyone about whom location information will be made available.*” *Specification*, at paragraph [1004] (*emphasis added*).

The Examiner Concludes that Poulin’s Subscriber Profile Teaches Authentication

Applicant’s *Specification* describes accessing subscriber identity and billing information as *part* of authenticating an application. Poulin describes accessing a user profile within a subscriber’s wireless device.

The Examiner concludes that thus Poulin describes authenticating an application. This is logically inconsistent. Even if Applicant describes authenticating application as including accessing subscriber identity and billing, the logical converse is not necessarily true. That is, accessing subscriber identity and billing does not necessarily describe authenticating an application.

Poulin fails to distinguish accessing a subscriber user profile over authenticating an *application* run on the mobile station. Poulin fails to teach or suggest that there are some *applications* run on the mobile device that can be authenticated, while other *applications* run on the *same* mobile station may not be authenticated. Poulin fails to even recognize the distinction.

Indeed, Poulin fails to describe the subscriber user profile as including those aspects of the identity and billing information described in the paragraph from Applicant’s *Specification* relied upon by the Examiner in making the rejection.

Again, Applicant discusses the portions from the *Specification* to refute the Examiner’s basis for the rejection, not as alleged limitations to be read into the claim. The Examiner alleges that Poulin’s description of a subscriber user profile is the same as Applicant’s description of authenticating an application. Applicant discusses the cited paragraph from Applicant’s *Specification* to demonstrate that the identity and billing information described in Applicant’s *Specification* is not what is described in Poulin, and that concluding that a description of a subscriber user profile describes authentication of an application is a logical error.

The Examiner does not contend that Kruis teaches or suggests this claimed feature. There is nothing in Kruis that cures the deficiencies in Poulin. Thus, the combination of

Poulin with Kruis also fails to teach or suggest a claimed feature that is absent from each reference individually.

Discussion of Second Claimed Feature Not Obvious in Light of Poulin and Kruis

Claim 1 also features “communicating directly with a mobile positioning center (MPC) in order to have the MPC fulfill the request for authentication of the LBS application.”

The Examiner cites to Poulin paragraphs 25, 28-30, 36, and 62-62 as allegedly teaching the claimed feature. *See, Office Action*, at page 5. In particular, the Examiner states that the “location based service center handles requests from all mobile devices.” *Id.*

However, the cited portion of Poulin fails to teach or suggest how a Location Based Service Center (LBSC) can authenticate an application. Instead, Poulin merely describes the LBSC as receiving and managing the profile information for subscribers of the communication service. *Poulin*, at paragraph [0037]. Poulin fails to teach or suggest that the LBSC has any ability to distinguish one *application* from another run on the same mobile station. Poulin fails to teach authenticating the *application*.

The Examiner contends, in the Response to Arguments, that Applicant is arguing features that are not recited in the rejected claims. *See, Office Action*, at page 5, paragraph 2. However, Applicant’s arguments repeat verbatim the claim language and argues the deficiencies of the Poulin reference relied upon by the Examiner.

The ability to distinguish one application from another is explicitly featured in claim 1. Claim 1 features actions that are performed if the *application* is authenticated and features distinct actions that are performed if the *application* is not authenticated. Thus, claim 1 recites the ability to distinguish authenticated applications from non-authenticated applications on the same mobile device.

The Examiner does not contend that Kruis teaches or suggests this additional claimed feature. Indeed, there is nothing in Kruis that cures the deficiencies in Poulin. Thus, the combination of Poulin with Kruis also fails to teach or suggest a claimed feature that is absent from each reference individually.

Applicant respectfully requests reconsideration and allowance of claim 1 at least for the reason that Poulin and Kruis, whether alone or in combination, fail to teach or suggest every claimed feature.

There is No Motivation to Combine Poulin With Kruis

The Examiner contends that it is obvious to combine Poulin with Kruis “to include a method to limit information needed to run an application if authentication has failed...since Kruis states that such a modification would allow real time management of services.” *Office Action*, at page 6. The Examiner cites to Kruis paragraphs 11, 12, 15, and 16 as providing support.

However, the cited paragraphs from Kruis fail to provide support for the combination argued by the Examiner. The cited paragraphs do not address any modification to location based wireless communication services, as described in Poulin. Nor do the cited paragraphs mention any modification of other processes to permit “real time management of services.”

Paragraph [0011] from Kruis is provided below in its entirety.

“[0011] It is a further object of the invention to provide a system and method for real-time self-provisioning of services on a mobile communication device.”

Paragraph [0012] from Kruis is provided below in its entirety.

“[0012] According to an aspect of the invention, a system and method are provided to allow a user to manage mobile communication device services in real time using the device.”

Paragraphs [0015] from Kruis substantially corresponds to Kruis published claim 1.

Paragraph [0016] from Kruis is substantially similar to paragraph [0015] and is provided below in its entirety.

[0016] According to a further aspect of the invention, a method of provisioning multiple services for a mobile communication device comprises the steps of receiving a provisioning request, the provisioning request including provisioning information and specifying a provisioning operation, a base communication service and a related communication service, processing the provisioning information to determine whether the provisioning operation may be performed for the base service, and, where the provisioning operation may be performed for the base communication service, then performing the provisioning operation for the base communication service, processing the provisioning information to determine whether the provisioning operation may be performed for the related communication service, performing the provisioning operation for the related communication service where the provisioning

operation may be performed for the related communication service, preparing a provisioning response indicating that the provisioning operation was successful, and sending the provisioning response to the mobile communication device.

As can be seen, the cited language fails to describe any motivation for modifying an existing location based wireless communication services, as described in Poulin.

Neither Poulin nor Kruis are directed to authenticating LBS applications.

The paragraphs from Kruis cited to by the Examiner as providing the motivation to modify Poulin all relate to self-provisioning of a mobile device. The Examiner fails to provide any analysis or reasoning that relates self-provisioning of a mobile device to location based services. Moreover, the references lack any teaching or suggestion that relate self-provisioning to running LBS application on a mobile station.

The Examiner provides the generalized motivation of "allow[ing] real time management of services." *Office Action*, at page 6. However, there is nothing in the generalized motivation that would lead one to the specific modification of a location based services method or system, as argued by the Examiner. Poulin fails to describe self-provisioning of the location based services or any provisioning of services.

There is nothing about the generalized motivation to allow real time management that relates to the specific modification proposed by the Examiner. That is, there is nothing about real time management of self provisioning that relates to modifying a location based application running on a mobile station. Certainly, there is nothing in the generalized motivation that relates to, teaches, or suggests modifying a location based services application authentication process.

Therefore, although the Examiner provides a generalized motivation to modify the references, there is nothing in the generalized motivation that would lead one of ordinary skill in the art to make the specific modification argued by the Examiner in the rejection. Moreover, there is nothing in the references or otherwise identified by the Examiner that would lead one of ordinary skill in the art to look to a reference describing self-provisioning of a mobile device in combination with running location based services.

Applicant respectfully requests reconsideration and allowance of claim 1, at least for the reason that there is no motivation to combine Poulin with Kruis in the manner suggested by the Examiner.

CONCLUSION

Applicant believes that all claims pending in the application are allowable. Applicant therefore respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned.

Applicant believes that the instant response is filed within the Shortened Statutory Period for response provided in the Office Action of July 18, 2007.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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By: /Linda G. Gunderson/
Linda G. Gunderson
Attorney for Applicant
Registration No. 46,341

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121-2779
Telephone: (858) 651-7351
Facsimile: (858) 845-3982
61156220 v1